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WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA, LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

CHARLES CARD,  
Plaintiff

CIVIL ACTION 1:10-CV-01195  
SECTION "P"

VERSUS

JUDGE DEE D. DRELL

JOE KEFFER, et al.,  
Defendants  
KIRK

MAGISTRATE JUDGE JAMES D.

J U D G M E N T

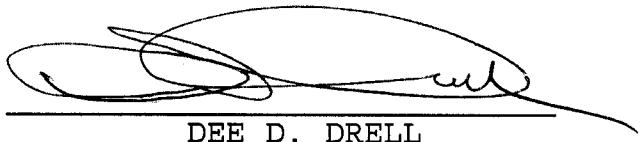
For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein, and after independent (de novo) review of the record including the objections filed herein, and having determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that defendants' motion for summary judgment be GRANTED IN PART in favor of Smith and Bacon.

In so ruling, we also note that, factually, this case is different from *Oviedo V. Hallbauer*, \_\_F.3d \_\_, 2011 WL 4011361 (5<sup>th</sup> Cir. 2011). Oviedo was an ordinary removal to federal court after certification by the Attorney General. The present case originated in federal court. The recharacterization of the suit as to Bacon and Smith was not incorrect. They remain defendants in this action under the Federal Tort Claims Act. However, automatic substitution of the United States is pretermitted at this time pending receipt and further consideration of a supplemental report and recommendation regarding the remaining

defendants. Counsel for the Government is, meanwhile, invited to read footnote 9 of the *Hui* opinion digested in the report and recommendation.

THUS ORDERED AND SIGNED in Chambers at Alexandria, Louisiana, on this 11<sup>th</sup> day of October, 2011.



DEE D. DRELL  
UNITED STATES DISTRICT JUDGE